

Item SP04-23 Response Form

Title: Information Access Disputes–Writ Petitions (Gov. Code § 71675) (new rule 6.710 of the California Rules of Court).

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ Title: _____

Organization: _____

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 P.M Wednesday, September 1, 2004

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.

Title	Information Access Disputes–Writ Petitions (Gov. Code § 71675) (new rule 6.710 of the California Rules of Court).
Summary	Proposed rule 6.710 would establish a writ petition and hearing procedure for alleged violations of rule 6.702, as required by Gov. Code § 71675.
Source	Administrative Office of the Courts, Office of the General Counsel
Staff	Scott Gardner, 415-865-7545, scott.gardner@jud.ca.gov
Discussion	<p>Rule 6.702 requires that trial courts and the Administrative Office of the Courts maintain, and make available upon request by the public, budget and management information for a period of three years.</p> <p>In 2001, the Legislature enacted Government Code § 71675 as part of SB 128, as a companion to rule 6.702. The legislature enacted SB 128 to permit enforcement of rule 6.702, when a requesting party believes that the trial courts or the AOC failed to properly maintain or provide access to this information. The enforcement procedure enumerated in Government Code § 71675 includes a writ petition and appeal process, whereby a justice from a specially appointed Court of Appeal panel hears the matter in superior court as a superior court judge on an expedited basis. Section 71675 also requires that the council enact a rule that creates “a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear these matters.” Proposed rule 6.710 would satisfy this requirement. A copy of the statute is attached.</p> <p>Proposed rule 6.710 is patterned after rule 2211 of the California Rules of Court. Like rule 2211, the proposed rule sets forth a procedure for the Chief Justice to create a panel consisting of one justice from each district of the Court of Appeal and assign one justice from the panel to hear petitions filed under section 71675 in superior court. The Administrative Office of the Courts’ Judicial Assignments Unit would administer the assignment of a justice from the panel.</p> <p>The proposed rule conforms to the legislative mandate of Government Code § 71675. The only provisions in the rule that are not contained in the statute are that (1) the justices on the panel will receive training, (2) a party filing a writ petition under section 71675 must clearly identify it on the cover page, and (3) the clerk of the court must notify the Administrative Office of the Courts of the need to assign a justice from the panel.</p>
	Attachments

Rule 6.710 of the California Rules of Court is adopted, effective immediately, to read:

Rule 6.710. Information access disputes–writ petitions (Gov. Code § 71675)

(a) [Applicability] This rule applies to petitions filed under subdivision (b) of Government Code section 71675.

(b) [Assignment of Court of Appeal justice to hear the petition]

(1) The petition must state the following on the first page, below the case number, in the statement of the character of the proceeding (see rule 201(f)(6)): “Writ petition filed under Government Code section 71675–Assignment of Court of Appeal justice required.”

(2) When the petition is filed, the clerk of the court must immediately request of the Judicial Assignments Unit of the Administrative Office of the Courts the assignment of a hearing judge from the panel established under subdivision (e).

(3) The judge assigned to hear the petition in the superior court must be a justice from a Court of Appeal for a district other than the district for that superior court.

(c) [Superior court hearing]

(1) The superior court must hear and decide the petition on an expedited basis and must give the petition priority over other matters to the extent permitted by law and the rules of court.

(2) The petition must be heard by a judge assigned by the Chief Justice from the panel of hearing judges established under subdivision (e).

(d) [Appeal] An appeal of the superior court decision must be heard and decided on an expedited basis in the Court of Appeal for the district in which the petition was heard and must be given priority over other matters to the extent permitted by law and the rules of court.

(e) [Panel of hearing judges] The panel of judges who may hear the petitions in the superior court must consist of Court of Appeal justices selected by the Chief Justice as follows:

(1) The panel must include at least one justice from each district of the Court of Appeal.

(2) Each justice assigned to hear a petition under (c)(2) must have received training on hearing the petitions as specified by the Chief Justice.

Government Code section 71675.

- (a) Any trial court may adopt a procedure to be used as a preliminary step before petitioning the superior court for relief pursuant to subdivision (b) in matters concerning the release of information by that trial court. The Judicial Council may adopt a procedure to be used as a preliminary step before petitioning the superior court for relief pursuant to subdivision (b) in matters concerning the release of information by the Judicial Council.
- (b) Notwithstanding Sections 1085 and 1003 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, in the event that a trial court employee, an employee organization, or a member of the public believes there has been a violation of Rule 6.702 of the California Rules of Court concerning the maintenance of, and public access to, budget and management information concerning the Judicial Council or the trial courts, that party may petition the superior court for relief.
- (c) The Judicial Council shall adopt rules of court to implement this hearing and appeal process. The rules of court shall provide a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear these matters, as specified in the rules of court, from which panel a single justice shall be assigned to hear the matter in the superior court. The rules of court shall provide that these matters shall be heard in the superior court, and, if applicable, the court of appeal, on an expedited basis. To the extent permitted by law or rule of court, these rules shall provide that the justice assigned to hear the matter shall not be from the court of appeal district in which the action is filed, and shall provide that appeals in these matters shall be heard in the court of appeal district where the matter was filed.